



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,392	04/30/2004	Jack Oswald	57429-8004.US01	3391
22918	7590	12/03/2009		
PERKINS COIE LLP				
P.O. BOX 1208				
SEATTLE, WA 98111-1208				
EXAMINER				
WOOLCOCK, MADHU				
ART UNIT		PAPER NUMBER		
2451				
NOTIFICATION DATE		DELIVERY MODE		
12/03/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentprocurement@perkinscoie.com  
skempe@perkinscoie.com

### Office Action Summary

**Application No.**

10/709,392

**Applicant(s)**

OSWALD ET AL.

**Examiner**

MADHU WOOLCOCK

**Art Unit**

2451

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-54 and 56-76 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-54 and 56-76 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-06)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This communication is in response to amendment filed on 08/11/2009. Claims 1, 25 and 54 have been amended and claim 55 was previously cancelled. Claims 1-54 and 56-76 remain pending.

### ***Claim Rejections - 35 USC § 112***

2. Applicant's amendments to claims 1, 23-25 and 54 in response to the rejections under 35 USC 112, second paragraph have been considered. The amendments to the claims obviate previously raised objection, as such the rejections are hereby withdrawn.

### ***Response to Arguments***

3. Applicant's arguments regarding the applied references failing to disclose the limitations of independent claims 1, 23-25 and 54 have been fully considered but they are not persuasive. Specifically, it is argued that the Kleinpeter, Harrow and Day references do not disclose "monitoring the lists of requested files during the transferring of the files" because monitored results in Kleinpeter generate results when the transferring of the requested files are completed, either successfully, or unsuccessfully.

In response to the argument it is first noted that with regards to claim 54, the amendment to the claim does not include "monitoring the lists of requested files during the transferring of the files", as argued by Applicant, and instead recites "monitoring the [priority] lists to determine whether to transfer a second portion of the particular media

item from a third device". Kleinpeter teaches that if at any point during the transfer of a file for some reason the connection is lost, the downloading of the remaining portions will be completed by another source. Given that it is determined that the initial transfer was interrupted at some point, monitoring of the transfer is apparent. Further, Kleinpeter recites that node 52 maintains a list of files and information about current and pending transfers for each client 54 (column 7 lines 30-32). Based on this monitoring of current and pending transfers, it is determined that the file should be partially downloaded from another source. The rejection is therefore maintained.

With regards to claims 1 and 23-25, it is first noted that the rejection of the argued limitation was in view of the Harrow reference which explicitly states that during operation, the server and router traffic is monitored (column 6 lines 27-30, as mapped below and in the previous Office Action). It is therefore unclear Applicant's alleging that after a careful reading of the Harrow reference, the applicants found no teaching regarding monitoring lists of requested files during the transferring of files. Applicant did not respond to the rejection with specific arguments regarding why Applicant believes the cited portion of Harrow fails to teach this claim limitation. Further, it is also noted that the rejection was made in view of the entire references and not solely on the cited portions. As stated above, Kleinpeter teaches node 52 maintains a list of files and information about current and pending transfers for each client 54 (column 7 lines 30-32). Additionally, interpretation of the claim language could be understood as monitoring a list of items being transferring, in which case the determination that the transfer of one item from the list as being successful or unsuccessful would still be

determined during the transferring of the list of items. The rejections are therefore maintained.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 3, 8-11, 17-26, 28-31, 37, 39-41, 43, 45, 46 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinpeter III et al. (US 6,907,463) in view of Harrow et al. (US 7,440,994) and in further view of Day (US 7,293,066).

Regarding claim 1, Kleinpeter teaches a method for distributing media content to clients having peer- to-peer connectivity, the method comprising:

hosting an online catalog having a selection of media items available (column 3 lines 40-41);

responsive to the online catalog, receiving from each client (users) a list of media items selected from the online catalog (column 1 lines 58-60);

based on the lists of media items received from the clients and based on where various media items reside (locations) (column 1 lines 60-64), determining a schedule (optimal repository user) for transferring media items (column 6 lines 57-60);

transferring a first portion of the media items pursuant to the schedule, including transferring at least some of the items between clients (agents) using peer-to-peer connectivity (column 3 lines 64-66).

However, Kleinpeter does not disclose a central repository, wherein at least some of the media items have been previously transferred from the central repository to some of the clients or monitoring the lists of media items received from the clients during the transferring of the media items to determine whether to transfer the media items from the central repository or from some of the clients.

Harrow teaches a central repository (remote server), wherein at least some media items have been transferred from the central repository to some clients (Client D 304-D may have had to obtain a copy of the file, for example, over the Internet from some remote server, column 3 lines 20-22); and

monitoring a list of media items received from the clients during the transferring of the first portion of the media items to determine whether to transfer a second portion of the media items from the central repository or from some of the clients (the server and router traffic is monitored to determine transfer times of files, column 6 lines 27-30; the directory consists of a database which tracks all transfers of files and is used to determine the nearest available client, column 8 lines 27-29).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize a central server and tracking of transfers in the system/method of Kleinpeter as suggested by Harrow in order to efficiently provide a client with any requested content. One would be motivated to combine these teachings

because tracking would allow for optimum transfer, and even if the content is not available on another client, the requesting client can obtain it from the server.

However, Kleinpeter-Harrow do not explicitly disclose that the list of requested media items is a prioritized list.

Day teaches receiving from each client a prioritized list of media items (the list of requested content data 210 may be prioritized, column 12 lines 13-19) selected from an online catalog (based on content data identified in the catalog of content data 115 as viewed by user 120, column 11 lines 47-50).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize a prioritized list of content in the system/method of Kleinpeter-Harrow as suggested by Day in order to increase the personalization and performance of the system. One would be motivated to combine these teachings because it would provide a means for a client to specify the ranking of desired data, allowing the server to determine the optimum order in which requested items should be delivered.

Regarding claim 3, Harrow teaches the method of claim 1, wherein the selection of media items includes audio/video media items (streaming video is an example of content, column 2 lines 25-27).

Regarding claim 8, Day teaches the method of claim 1, wherein the transferring step includes transferring the media items to client playback devices (in response to receipt

of a user playback command at the data processing device, the processing device transmits a stream of data associated with the user-selected content data in the storage location to a display device, column 5 lines 66-67 – column 6 lines 1-2).

Regarding claim 9, Harrow teaches the method of claim 1, wherein determining step includes determining a schedule that minimizes bandwidth requirements (shifting WAN traffic to a LAN communication may free up WAN bandwidth, column 2 lines 27-28).

Regarding claim 10, Harrow teaches the method of claim 1, wherein the determining step includes determining a schedule that minimizes transfers from the central repository (if the file is available locally, the information as to the local sources for the file will be returned to the requesting client, and a direct file copy between peers can be initiated from there, column 12 lines 32-35).

Regarding claim 11, Kleinpeter teaches the method of claim 1, wherein the determining step includes determining a schedule that maximizes transfers between clients that can occur within a reasonable period of time (fastest speed connection, column 6 lines 20-25).

Regarding claim 17, Kleinpeter teaches the method of claim 1, wherein the determining step includes:



determining which media items (specific file) may be transferred from one client (agent) to another (column 3 lines 60-63).

Regarding claim 18, Harrow teaches the method of claim 17, wherein the determining step further comprises:

determining which media items need to be transferred from the central repository to clients (if a copy of the file is not available locally, a standard request will be sent to the webserver hosting the file and a copy of it will be downloaded to the requesting client, column 12 lines 37-40).

Regarding claim 19, Harrow teaches the method of claim 1, wherein the hosting step includes providing caching space at a client for storing media items not on the prioritized list of media items requested by said client (a portion of users' hard disk space would be reserved by an administrator for this purpose, column 13 lines 53-55).

Regarding claim 20, Harrow teaches the method of claim 19, wherein said determining step includes determining which media items need to be transferred from the central repository to said caching space at the client (the backing up of files may be mediated by a server, column 13 line 57).

Regarding claim 21, Harrow teaches the method of claim 1, wherein the transferring step includes transferring the media items using wireless connectivity (wireless network, column 15 line 37).

Regarding claim 22, Kleinpeter teaches the method of claim 1, wherein the transferring step includes checking the media items transferred for determining that they have not been corrupted during the transfer (a client may say the transfer was successful) (column 8 lines 66-67).

Regarding claim 23, Kleinpeter teaches a computer-readable medium (any type of digital memory management system) having processor-executable instructions for performing the method of claim 1 (column 4 lines 3-10).

Regarding claim 24, Kleinpeter teaches a computer-readable storage medium having a downloadable set of processor-executable instructions (software agents) for performing the method of claim 1 (column 3 lines 17-25).

Regarding claim 25, Kleinpeter a system for distributing media content to clients having peer- to-peer connectivity, the system comprising:

an online catalog having a selection of media items available (column 3 lines 40-41)

a server for receiving from each client a list of media items selected from the online catalog (column 1 lines 58-60) and for determining a schedule (optimal repository user) for transferring media items based on the lists of media items received from the clients and based on where particular media items reside (locations) (column 1 lines 60-64; column 6 lines 57-60),

a network, in communication with the server (agent server, executed on the network based computing system), for transferring the media items (shared files) pursuant to the schedule, including transferring at least some of the items (file requests) between clients (software agents) using peer-to-peer connectivity (direct connection between their respective computing systems) (column 3 lines 21-31); and

client devices associated with the clients (users), in communication with the network, for storing transferred media items (the client having that file locally stored, column 2 line 38).

However, Kleinpeter does not disclose a central repository, wherein at least one of the media items have already been previously transferred from the central repository to at least one of the clients or monitoring the lists of the media items received from all clients during transferring of the media items to determine whether to transfer the media items from the central repository or from some of the clients.

Harrow teaches a central repository (remote server), wherein at least one media item has been transferred from the central repository to at least one client (Client D 304-D may have had to obtain a copy of the file, for example, over the Internet from some remote server, column 3 lines 20-22); and

monitoring a list of media items received from all clients during transferring of the media items to determine whether to transfer an untransferred portion of the media items from the central repository or from some of the clients (the server and router traffic is monitored to determine transfer times of files, column 6 lines 27-30; the directory consists of a database which tracks all transfers of files and is used to determine the nearest available client, column 8 lines 27-29).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize a central server and tracking of transfers in the system/method of Kleinpeter as suggested by Harrow in order to efficiently provide a client with any requested content. One would be motivated to combine these teachings because tracking would allow for optimum transfer, and even if the content is not available on another client, the requesting client can obtain it from the server.

However, Kleinpeter-Harrow do not disclose that the list of media items are prioritized lists of media items selected for playback or client devices associated with clients for playing back transferred media items.

Day teaches a prioritized list of media items selected for playback (the list of requested content data 210 may be prioritized, column 12 lines 13-19); and

client devices associated with the clients for playing back transferred media items (in response to receipt of a user playback command at the data processing device, the processing device transmits a stream of data associated with the user-selected content data in the storage location to a display device, column 5 lines 66-67 – column 6 lines 1-2).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize a prioritized list of content for playback in the system/method of Kleinpeter-Harrow as suggested by Day in order to allow a user to personalize their preference for receiving media items. One would be motivated to combine these teachings because one would recognize that a user would appreciate having the option of selecting the order in which media items, such as music and movies, are received.

Regarding claim 26, this system claim comprises limitations substantially the same as those discussed on claim 3, same rationale of rejection is applicable.

Regarding claim 28, this system claim comprises limitations substantially the same as those discussed on claim 8, same rationale of rejection is applicable. Further including items are transferred to the client playback devices for storage (Day: distribution of user-selected content data from the remote source to the storage location (such as a set top box) accessible by the user, column 5 lines 18-20).

Regarding claim 29, this system claim comprises limitations substantially the same as those discussed on claim 9, same rationale of rejection is applicable.

Regarding claim 30, this system claim comprises limitations substantially the same as those discussed on claim 10, same rationale of rejection is applicable.

Regarding claim 31, this system claim comprises limitations substantially the same as those discussed on claim 11, same rationale of rejection is applicable.

Regarding claim 37, Kleinpeter teaches the system of claim 25, wherein the server (server group) determines which media items (file) may be transferred from one client (agent) to another (column 3 lines 60-63).

Regarding claim 39, this system claim comprises limitations substantially the same as those discussed on claim 21, same rationale of rejection is applicable.

Regarding claim 40, Kleinpeter teaches wherein the online catalog is accessible via an Internet browser program (web browser) (column 3 lines 35-41).

Regarding claim 41, Day teaches the system of claim 25, wherein the online catalog is accessible from the client devices (the user 120 accesses and views catalog of content 115 to identify potentially available content data 132 for delivery and storage in data processing device 150-4, column 11 lines 38-41).

Regarding claim 43, Day teaches the system of claim 25, wherein the client devices comprise set-top boxes (the data center prompts a remote data server source (e.g., a content data server) to sent content data associated with the user-selected movies form storage in the set top box, column 3 lines 36-39).

Regarding claim 45, Day teaches the system of claim 25, where the central repository comprises a media server (content data server 125 of FIG. 1).

Regarding claim 46, Day teaches the system of claim 45, wherein the media server stores downloadable video media (content data (such as movies), column 10 lines 3-5).

Regarding claim 53, Kleinpeter teaches the system of claim 25, wherein at least some of the client devices (computing systems) communicate with said network through a network connection (column 3 lines 20-25).

5. Claims 2, 5, 6, 13, 14, 33-36 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinpeter-Harrow-Day in view of Chiu (US 2003/0158958).

Regarding claim 2, Kleinpeter-Harrow-Day do not disclose that upon completion of transfer of a particular media item at a given client, indicating at the client that the particular media item may be purchased for use.

Chiu teaches the method of claim 1, further comprising:

upon completion of transfer of a particular media item at a given client (upon completion of the content download and verification), indicating at the client that the particular media item may be purchased for use (any user who wants to view the

content will be presented with a pay-per-view dialog screen, [0005]; access of the content in local storage by this end-user, [0015]).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize presenting a pay-per-view dialog screen to an end user in the system/method of Kleinpeter-Harrow-Day as suggested by Chiu in order to ensure that the user pays for any copyrighted or privately owned material. One would be motivated to combine these teachings because it would make the system legitimate by allowing users to watch and listen to entertainment media with authorization.

Regarding claim 5, Chiu teaches the method of claim 1, wherein the hosting step includes pre-loading media items (downloads content items) on client devices supplied to users (end-user system) [0015].

Regarding claim 6, Chiu teaches the method of claim 5, wherein said step of pre-loading media items (downloads content items, [0015]) includes pre-loading particular media items based upon user requests for particular media items (system utilizes user-access history to pre-select or recommend content available on SAN, [0017]).

Regarding claim 13, Chiu teaches the method of claim 1, wherein the transferring step includes transferring the media items using broadband connectivity (a network architecture to enable a broadband service, such as a video-on demand service, in a peer-to-peer network environment, [0003]).



Regarding claim 14, Chiu teaches the method of claim 1, wherein each media item is transferred in encrypted format (the content can be encrypted or watermarked, [0007]).

Regarding claim 33, this system claim comprises limitations substantially the same as those discussed on claim 13, same rationale of rejection is applicable.

Regarding claim 34, this system claim comprises limitations substantially the same as those discussed on claim 14, same rationale of rejection is applicable.

Regarding claim 35, this system claim comprises limitations substantially the same as those discussed on claim 15, same rationale of rejection is applicable. Further including a module, responsive to the received payment instructions, for authorizing playback of the particular media item at the given client device (Chiu: any user who, e.g., wants to view the content will be presented with a pay-per-view dialog screen. Subsequently the user can decide whether to pay or not, [0005]).

Regarding claim 36, Chiu teaches the system of claim 35, further comprising:

a module (e.g. Conditional Access Module) for checking the given client's (user's) account status before authorizing playback of the particular media item at the given client device (verification of a user's account and permission can be verified locally, e.g., by using a CAM, [0005]).

Regarding claim 44, Chiu teaches the system of claim 43, wherein the set-top boxes (e.g. STBs) include hard disk storage (local storage (e.g., HDD)) and broadband connectivity (IP communication capabilities) (consumer set-top boxes (STBs), which include local storage (e.g., HDD), high processing power, and IP communication capabilities, [0007]).

6. Claims 4, 27, 38 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinpeter-Harrow-Day in view of Son et al. (US 2003/0126277).

Regarding claim 4, Kleinpeter-Harrow-Day do not explicitly disclose the media items including various file types.

Son teaches wherein the selection of media items includes various file types (e.g. MPEG, AVI and ASF, [0021]).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to support multiple file types in the system/method of Kleinpeter-Harrow-Day as suggested by Son in order to increase the uses for the system. One would be motivated to combine these teachings because it would allow the system to transfer various kinds of data over the network.

Regarding claim 27, this system claim comprises limitations substantially the same as those discussed on claim 4, same rationale of rejection is applicable.

Regarding claim 38, Son teaches the system of claim 37, wherein the server determines (by communicating with the server) which media items (video data) need to be transferred from the central repository (server) to clients (if one of the clients does not store the video data, the first client receives the video data from the server, [0027]).

Regarding claim 42, Son teaches the system of claim 41, wherein the online catalog is accessible from the client devices (the catalog stored in the server is transmitted to the client, [0031]) via a selected one of online connectivity (between the server group and the client group, there are the Internet and access networks, [0022]) and a local database at the client devices (client group includes a local network, [0022]).

7. Claims 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinpeter-Harrow-Day-Chiu in view of Schleicher et al. (US 2002/0138576) (referred to hereafter as Schleicher2).

Regarding claim 7, Chiu teaches the method of claim 5, wherein the hosting step includes preloading media items (the user does not control the content stored on local storage and received from, e.g. database, [0016]).

However, Kleinpeter-Harrow-Day-Chiu do not explicitly disclose loading particular media items based upon predicting media items likely to be needed.

Schleicher2 teaches loading particular media items based upon predicting media items likely to be needed (providers may then specify which users should be targeted for which types of marketing content, [0028]).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize targeting users based on user interests in the system/method of Kleinpeter-Harrow-Day-Chiu as suggested by Schleicher2 in order to efficiently distribute media items. One would be motivated to combine these teachings because personalizing the media items received by users will improve customer satisfaction.

8. Claims 12 and 32 rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinpeter-Harrow-Day in view of Perkes et al. (US 2002/0194601).

Regarding claim 12, Kleinpeter-Harrow-Day do not disclose the determining step being based on storage available at each client for receiving media items.

Perkes teaches the method of claim 1, wherein the determining step is also based on storage available at each client (consumer's computer) for receiving media items (determine the storage availability, [0050]).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize determining storage availability of a requesting consumer in the system/method of Kleinpeter-Harrow-Day as suggested by Perkes in order to confirm that the receiving computer has enough space to support the content it is requesting. One would be motivated to combine these teachings in order to avoid incomplete or erroneous file transfers.

Regarding claim 32, this system claim comprises limitations substantially the same as those discussed on claim 12, same rationale of rejection is applicable.

9. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinpeter-Harrow-Day-Chiu in view of Schleicher et al. (US 7,047,406) (referred to hereafter as Schleicher1).

Regarding claim 15, Kleinpeter-Harrow-Day-Chiu do not disclose receiving purchase instructions from a given client or in response to the purchase instructions, decrypting the particular media item for playback at the given client.

Schleicher1 teaches the method of claim 14, further comprising:

receiving purchase instructions (billing information) from a given client (receives registration information entered by a user, which can include billing information, column 4 lines 47-49); and

in response to receiving the purchase instructions (when registration is complete, the user is notified and may then execute the P2P client application, column 4 lines 56-57), decrypting the particular media item for playback at the given client (when the file is received and authenticated, the user's public key may be used to decrypt the file, column 6 lines 32-34).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to authenticate a users billing information before decrypting a file in the system/method of Kleinpeter-Harrow-Day-Chiu as suggested by Schleicher1 in order to verify that a user can pay for purchased media. One would be motivated to combine these teachings because it would prevent users from fraudulently obtaining media content.

Regarding claim 16, Schleicher1 teaches the method of claim 15, further comprising:

checking the given client's account status before decrypting the particular media item for playback at the given client (when the file is received and authenticated, the user's public key may be used to decrypt the file, column 6 lines 32-34).

10. Claims 47-50 and 52 rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinpeter-Harrow-Day in view of Schleicher1.

Regarding claim 47, Kleinpeter-Harrow-Day do not disclose a customer management module for tracking account status of each client.

Schleicher1 teaches the system of claim 25, wherein the server includes a customer management module for tracking account status of each client (user database, column 4 lines 35-36).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to maintain a user database with user account information in the system/method of Kleinpeter-Harrow-Day as suggested by Schleicher1 in order to keep track of client activity and payments. One would be motivated to combine these teachings because it would provide records that would allow the system to better function and accurately service the users.

Regarding claim 48, Schleicher1 teaches the system of claim 25, wherein the server includes a key vault storing decryption keys (the user's public key and private key are stored in the certificate database, column 4 lines 54-55) that may be transferred to clients for playing back transferred media items (file) (the user's public key may be used to decrypt the file, column 6 lines 32-34).

Regarding claim 49, Schleicher1 teaches the system of claim 48, wherein the server checks account status of a client (user) (the server node receives registration information entered by the user, which can include billing information, column 4 lines 47-49) before issuing (generates) a decryption key to the client (user) (in response, the

server node generates account information for the user, including a digital certificate that includes a public key and a private key, column 4 lines 50-52).

Regarding claim 50, Schleicher1 teaches the system of claim 48, wherein the server checks geographic location (demographic information) of a client before issuing (generates) a decryption key to the client (user) (column 4 lines 47-52).

Regarding claim 52, Harrow teaches the system of claim 48, further comprising:  
television devices, in communication with the client devices, for playing back transferred media items (television, column 15 lines 65-67).

11. Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinpeter-Harrow-Day-Schleicher1 in view of Perkes.

Regarding claim 51, Kleinpeter-Harrow-Day-Schleicher1 do not teach that each decryption key automatically expires after some period of time.

Perkes teaches the system of claim 48, wherein each decryption key automatically expires after some period of time (allows encryption keys to be regularly updated, [0217]).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to regularly update encryption keys in the system/method of



Kleinpeter-Harrow-Day-Schleicher<sup>1</sup> as suggested by Perkes in order to make the system more secure. One would be motivated to combine these teachings because one would recognize that after a certain period of time it is possible to acquire an encryption key and that if the encryption key were to expire after a certain period of time it would be more difficult to illegitimately use it.

12. Claims 54, 57, 59-61, 63-65, 71 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinpeter in view of Son and in view of Day and in further view of Doyle (US 7,310,679).

Regarding claim 54, Kleinpeter teaches a method comprising:

- determining media items (shared files) available on a plurality of devices having peer-to-peer connectivity to one another (column 3 lines 25-32);

- receiving lists from at least some of said plurality of devices (users of the intelligent agent simply submit a list of requested files, column 1 lines 58-60);

- selecting a particular media item (file) to be delivered to a first device of the plurality of devices based on the lists (column 3 lines 44-46);

- identifying at least one second device of the plurality of devices (user) having the particular media item (file) to be delivered to the first device (column 3 lines 48-51);

transferring a first portion of the particular media item (file) to the first device (agent 30A) from the at least one second device (agent 30B) at which the particular media item is available (column 3 lines 64-66); and

monitoring the lists to determine whether to transfer a second portion of the particular media item from a third device (if for some reason a connection with the client agent is lost at any point during the file transfer, the agent server will then queue the request until the user runs the agent server again. In the manner, it is possible that files partially downloaded from one source may be completed from another source, column 2 lines 5-10).

However, Kleinpeter does not explicitly disclose that the connectivity is peer-2-peer or selecting a media item based on media items determined to be available on the first device.

Son teaches peer-2-peer connectivity [0001]; and

selecting a media item to be delivered to a first device based on the media items determined to be available on the first device (investigates whether video data to be played is stored in its local disk, [0033]).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize a P2P approach in which it is investigated whether video data is local stored before transmitting it in the system/method of Kleinpeter as suggested by Son because doing so would result in using bandwidth and device resources for transmission only when necessary. One would be motivated to combine

these teachings because minimizing the amount of transfers would make the system more efficient.

However, Kleinpeter-Son do not explicitly disclose that the received lists are priority lists, wherein each priority list represents a prioritized list of media items requested at a particular device or wherein the selection grants content data to any of the plurality of devices with no media items selected from its respective prioritized list to watch.

Day teaches a priority list, wherein each priority list represents a prioritized list of media items requested at a particular device (the list of requested content data 210 may be prioritized, column 12 lines 13-19); and

wherein a selection grants content data to any of a plurality of devices with no media items selected from its respective prioritized list to watch (assume that slots for storing content data are initially empty. After retrieval and storage of content data such as the first four user-selected movies in the first four slots in the set top box, column 10 lines 33-36).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize a prioritized list of requested content and granting content to users with empty slots in the system/method of Kleinpeter-Son as suggested by Day in order to successfully supply users with desired content data. One would be motivated to combine these teachings because it would improve customer satisfaction of the distribution system.

However, Kleinpeter-Son-Day do not disclose that the plurality of devices with no media items to watch are granted high priority.

Doyle teaches the selection grants high priority to any of the plurality of devices with no media items to watch (column 6 lines 60-62).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize giving priority to clients lacking video content in the system/method of Kleinpeter-Son-Day as suggested by Doyle in order to give a client a flawless viewing experience and ensuring that a user of the system will always have available the necessary video data to play a requested video. One would be motivated to combine these teachings because one would recognize that clients which already have content to view will be satisfied for some time with watching the already obtained content, whereas clients with no video to watch will be displeased having to wait for new content to be received.

Regarding claim 57, Kleinpeter teaches the method of claim 54, wherein said step of selecting a particular media item (file) to be delivered to a first device (column 3 lines 44-46) includes selecting the first device to receive the particular media item from said plurality of devices (sources) (files partially downloaded from one source may be completed from another source, column 2 lines 9-10).

Regarding claim 59, Day teaches the method of claim 57, wherein said step of selecting the first device includes comparing a priority list of a given device (user 120 requests to

receive A, B, C, D, E, F, G, H and I, column 12 lines 32-33) with the media items determined to be available on the given device (remote source 125 only delivers content data A, C, D, F, and H, column 12 lines 33-34), so as to evaluate need for delivery of a media item to the given device (remote source 125 does not forward content data H for storage in storage location 168-5 until user 120 starts playing back (e.g., viewing) one of content data A, C, D, or F on display 170, column 12 lines 38-41).

Regarding claim 60, Kleinpeter teaches the method of claim 54, further comprising:  
tracking measured performance of communications amongst said plurality of devices (the actual speed of the connection between server group and agent is determined rather than a default reported speed, column 5 lines 46-55).

Regarding claim 61, Kleinpeter teaches the method of claim 60, wherein said step of identifying at least one second device includes identifying at least one second device (agent) based, at least in part, on measured performance of communications between the first device and said at least one second device (server group to determine the optimal pair of agents with which to establish a connection for an individual file transfer, column 5 lines 63-67 – column 6 lines 1-8).

Regarding claim 63, Kleinpeter teaches the method of claim 54, wherein said step of identifying at least one second device (30B) includes making transfers from client

devices having a copy of the particular media item when feasible (column 3 lines 60-67), so as to conserve server resources (column 1 lines 36-40).

Regarding claim 64, Kleinpeter teaches the method of claim 54, wherein said step of identifying at least one second device (optimal source) includes identifying said at least one second device (optimal source) based upon minimizing time required to transfer the particular media item to the first device (based on the speed of the network connection between the client having that file locally stored, column 2 lines 35-40).

Regarding claim 65, Kleinpeter teaches the method of claim 54, wherein said step of identifying at least one second device includes evaluating network location of the first device and said at least one second device (a geographic check is made as to whether or not agents in the list share the same sub-net, network, or non-USA country code, column 6 lines 17-20).

Regarding claim 71, Kleinpeter teaches the method of claim 54, wherein said step of transferring the particular media item to the first device includes determining which device should initiate communications (active agent) for delivery of the particular media item to the first device (distinctions are made because some agents are behind firewalls and can only establish connections, column 7 lines 5-22).

Regarding claim 72, Kleinpeter teaches the method of claim 54, wherein said step of transferring the particular media item to the first device includes monitoring the transfer, so as to verify successful transfer of the particular media file to the first device (a client may say the transfer was successful, column 8 lines 64-67).

13. Claims 56, 62, and 67-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinpeter-Son-Day-Doyle in view of Schleicher1.

Regarding claim 56, Kleinpeter-Son-Day-Doyle do not explicitly disclose the plurality of devices includes at least one server having copies of media items for supply to client devices.

Schleicher1 teaches the method of claim 54, said plurality of devices includes at least one server having copies of media items (each server node 12 stores content 20 that comprises both commercial files 20a and non commercial files 20b, column 3 lines 58-60) for supply to client devices (delivered by the server node, column 5 lines 63-64).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize a server with a database of content to be supplied to clients in the system/method of Kleinpeter-Son-Day-Doyle as suggested by Schleicher1 because it would guarantee that a particular file is always available by maintaining a back-up copy. One would be motivated to combine these teachings because

regardless of which peers are or are not connected to the network at a given time, a requested file can be obtained by a client.

Regarding claim 62, Schleicher1 teaches the method of claim 54, where said step of identifying at least one second device based upon minimizing overall system bandwidth requirements (column 63-67).

Regarding claim 67, Schleicher1 teaches the method of claim 54, wherein said step of identifying at least one second device includes identifying a plurality of second devices, so as to share transfer of the particular media item amongst said plurality of second devices (delivery using multiple and partial file transfers, column 6 lines 66-67 – column 7 line 1).

Regarding claim 68, Schleicher1 teaches the method of claim 54, wherein said step of transferring the particular media item to the first device (client node) includes transferring portions of the particular media item (file) from a plurality of second devices (nodes) (the client node downloads different portions of the file from different thus nodes, column 7 lines 1-2).

Regarding claim 69, Schleicher1 teaches the method of claim 68, wherein transferring portions of the particular media item (file) from a plurality of second devices (nodes) includes selecting a certain portion of a media item (1/3 of the file) to be delivered by a



particular second device (downloading 1/3 of the file from three different nodes, column 7 lines 2-3).

Regarding claim 70, Schleicher<sup>1</sup> teaches the method of claim 54, wherein said step of transferring the particular media item to the first device includes scheduling when the transfer should be initiated (users may schedule delivery of content over the network, column 3 lines 32-35).

14. Claims 58 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinpeter-Son-Day-Doyle in view of Daniels (US 2002/0100052).

Regarding claim 58, Kleinpeter teaches the method of claim 57, wherein said step of selecting the first device to receive the particular media item from said plurality of devices (column 2 lines 9-10).

However, Kleinpeter-Son-Day-Doyle do not disclose the criteria for determining the device is determining a device least-most recently served by delivery of a media item.

Daniels teaches determining a device least-most recently served by delivery of a media item (the transmission priority may also dependent on a length of time a requested video selection has been pending, [0215]).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize determining a transmission priority based on the length of time the request has been pending in the system/method of Kleinpeter-Son-Day-Doyle as suggested by Daniels in order to ensure that none of the users wait too long to receive requested content. One would be motivated to combine these teachings because it would provide fair and effective service to all customers.

Regarding claim 66, Daniels teaches the method of claim 54, wherein said step of identifying at least one second device includes determining a device least-most recently transferring a media item (the transmission priority may also dependent on a length of time a requested video selection has been pending, [0215]).

15. Claims 73-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinpeter-Son-Day-Doyle in view of Chiu.

Regarding claim 73, Kleinpeter-Son-Day-Doyle do not explicitly disclose verifying the transfer to confirm transfer of the correct copy of the particular media file to the first device.

Chiu teaches the method of claim 54, wherein the transferring step includes verifying the transfer, so as to confirm transfer of a correct copy of the particular media file to the first device (verifies the content during and after transfer, [0016]).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize verifying content during and after transfer in the system/method of Kleinpeter-Son-Day-Doyle as suggested by Chiu in order to track the dependability of the system. One would be motivated to combine these teachings in order to ensure that the users of the system are satisfied with the provided services.

Regarding claim 74, Chiu teaches the method of claim 54, further comprising:

pre-loading media items on at least some of the plurality of devices (head-end control system of SAN selects at least one end-user system, [0015]).

Regarding claim 75, Kleinpeter teaches the method of claim 74, wherein setting up an account at the time of purchase of the device (column 5 lines 17-24).

However, Kleinpeter does not disclose wherein setting up the account includes said pre-loading step including pre-loading particular media items on a device based on user input.

Chiu teaches wherein said pre-loading step includes pre-loading particular media items on a device based on user input (Chiu: system utilizes user-access history to pre-select or recommend content available on SAN, [0017]).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize user-access history for selecting available content to be distributed in the system/method of Kleinpeter as suggested by Chiu in order to improve customer satisfaction by personalizing the selection of content. One would be

motivated to combine these teachings because the user would be provided with items of interest to the user.

16. Claim 76 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinpeter-Son-Day-Doyle-Chiu in view of Schleicher2.

Regarding claim 76, Kleinpeter-Son-Day-Doyle-Chiu do not disclose pre-loading media items based, at least in part, on predicted demand for media items.

Schleicher2 teaches the method of claim 74, wherein said pre-loading step includes pre-loading media items based, at least in part, on predicted demand for particular media items (specify which users should be targeted for which types of marketing content, [0028]).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize statistics of a user's behavior and using these statistics to determine which items to send to a user in the system/method of Kleinpeter-Son-Day-Doyle-Chiu as suggested by Schleicher2 in order to provide users with content directed to their interests. One would be motivated to combine these teachings because users will appreciate that the items downloaded to their system are specifically targeted to an individual user and their storage is not taken up with useless content.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **MADHU WOOLCOCK** whose telephone number is (571)270-3629. The examiner can normally be reached on Monday-Thursday 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. W./  
Examiner, Art Unit 2451

/John Follansbee/  
SPE 2451